IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CEA No.62 of 2006
Date of decision:10.10.2006

Commissioner of Central excise Commissionerate, Ludhiana.

....Appellant

versus

M/s. Vardhman Industries Limited (Unit II), Village Pawa, GT Road, Sahnewal, Ludhiana.

....Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mrs. Daya Chaudhary, Assistant Solicitor General of India, for the appellant.

JUDGMENT:

1. This appeal has been preferred by the revenue proposing following substantial question of law:-

> "Whether under Section 35(C)(1) of the Central Excise Act, 1944, the Tribunal is correct in deciding an issue which was not the subject matter of the order appealed against by the party?"

2. The assessee is manufacturer of non-alloy steel ingots. It sought abatement of duty under section 3A(3) of the Central Excise Act, 1944 (for short, 'the Act') on the ground that factory of the assessee remained closed for a period of more than seven days. After verifying the facts, abatement was allowed to the extent of Rs.14,94,364/- and for the amount for which duty was not allowed, that is for 41 hours, demand of Rs.52,111/- was raised. Equal amount of penalty was also imposed.

3. On appeal, deduction of 41 hours from the abatement claim was set aside.

4. We have heard learned counsel for the appellant and perused the record.

5. We find that the Tribunal has recorded a finding of fact that a claim for abatement was made out and without any justification, the same was disallowed for 41 hours. We do not find any substantial question of law arising from the said order.

6. The appeal is dismissed.

(Adarsh Kumar Goel)
Judge

Oct.10, 2006 (Rajesh Bindal)
'gs' Judge